

MAY 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

REYES TEPOXTECO VEGA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74459

Agency No. A95-309-967

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006^{**}

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Reyes Tepoxteco Vega, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying his equal protection challenge and affirming an immigration judge's order denying his

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

application for cancellation of removal. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Substantial evidence supports the BIA's determination that Tepoxteco Vega is ineligible for cancellation of removal because he lacks a qualifying spouse, parent or child. *See* 8 U.S.C. § 1229b(b)(1)(D); *Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002).

Reviewing de novo, *Ram v. INS*, 243 F.3d 510, 517 (9th Cir. 2001), we conclude that Tepoxteco Vega's equal protection claims fail because Congress's decision to afford more favorable treatment to aliens from certain countries, or who have children born in the United States, is rationally related to legitimate government purposes. *See Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 602-03 (9th Cir. 2002) (rejecting equal protection claim based on NACARA's more favorable treatment of individuals from certain countries because "[l]ine-drawing' decisions made by Congress or the President in the context of immigration and naturalization must be upheld if they are rationally related to a legitimate government purpose").

PETITION FOR REVIEW DENIED.